

Development Management Delegated Decision Report



SUMMARY OF APPLICATION

Application Reference	B/21/0349/CD2
Application Type	Discharge of Condition
Proposal	Application to discharge Conditions 4 (Boundary Treatments), C15 (Landscaping & Biodiversity Plan), C17 (EV Car Charging) & C 18 (Public Open Space) of permission B/21/0349
Location	Land at Toot Lane, Boston, PE21 0PT
Applicant	Mr Simon Dillon, C/O Lincs Design Consultancy
Agent	Mr Daniel Sharp, Lincs Design Consultancy
Statutory Expiry Date:	20-Apr-2023
Extension of Time:	
Recommendation	Acceptable to comply with conditions 4, 8, 9, 15 and 17.
Report by:	Ian Carrington
Date:	01-June-2023
Officer Appraisal / Comments:	
<p>B/21/0349 allowed the Development of up to 135 dwellings of affordable housing with associated access, parking, open space, landscaping and associated infrastructure and was granted on 3- Mar-2022.</p> <p>B/21/0349/CD1 approved a condition discharge application for Condition 6 (construction management plan) on 12-May-2022.</p> <p>The present application seeks to discharge Conditions 4 (Boundary Treatments), C15 (Landscaping & Biodiversity Plan) & C17 (EV Car Charging). In addition after the application was first submitted further material was added seeking to discharge conditions 8 and 9 relating respectively to proposed arrangements for the management of streets and engineering, drainage, street lighting and constructional details of any streets proposed for adoption.</p> <p>For Condition 4 the submitted plans show a range of boundary treatments. These include 1.8m close boarded fencing adjacent to existing properties to preserve privacy, traditional Lincolnshire post-and-rail fencing, lengths of brick wall and specialist areas such as fencing to prevent vehicular access to the public open space (POS) areas. In response to neighbour concerns about overlooking the applicant has amended the initial submission to include 1.8m close boarded fencing at the boundary of properties adjacent to The Furrows. The proposed details are considered acceptable. In the course of considering this application the attention of the Authority was drawn to evidence provided to the Enforcement Team regarding damage to existing neighbours' fencing alleged to have been caused by contractors working on this scheme. Whilst the incidents are noted, it is not considered that the process of conditions discharge can be used to resolve what is essentially a matter between private landowners.</p>	



Condition 15 relates to biodiversity and landscaping measures. The submitted details include provision for nesting equipment and soft landscaping. The details do not meet the emerging requirements for biodiversity net gain, but when set against the local and national policy, guidance and regulatory frameworks obtaining at the time the condition was imposed the details are satisfactory and the proposal is considered acceptable.

Condition 17 relates to the control of pollution and provisions for carbon reduction including renewables and electric vehicle charging. The proposal is that every dwelling should be equipped with an internally controlled external socket to allow basic EV charging. No proposals for (for example) solar PV or other renewables generation are included. Whilst the details represent the bare minimum required to address the condition, it is noted that the wording of the relevant Local Plan policies (30 and 31) is such that, taken together with the regulatory framework in place at the time of the consent being granted, more robust measures could not be demanded. The proposal is therefore considered acceptable in that context.

The applicant initially sought to discharge Condition 18 which covers 'final details of the public open space including layout, landscaping, provision of play equipment and of informal footways and cycleways, throughout the site, along with a timetable for their implementation'. The proposal is that the public open space should be covered with 'rough grass'. Landscaping is dealt with under Condition 4, and the footways and opportunities for active movement shown on the layout plan are adequate. There is no proposal for play equipment. The use of rough grass is acceptable and practical, and though regrettable, under the policy and regulatory framework covering this discharge the Authority has no leverage to require additional landscaping or habitat provision in the public open space. The lack of play equipment is not considered acceptable at this stage, given the clear guidance set out in the National Design Guide. The applicant has therefore requested (see email on file) that Condition 18 is not included in this application.

Condition 8 covers the details of the proposed arrangements for future management and maintenance of the proposed streets within the development. Condition 9 covers civil engineering, drainage, street lighting and constructional details of any streets proposed for adoption. The applicant has submitted a completed Section 34 agreement between the developer and Lincolnshire county Council as highways authority. Adoption as public highway satisfies the requirements regarding future maintenance responsibilities and the document submitted includes LCC's acceptance of a schedule of plans setting out the details required under condition 9. The submitted details are considered acceptable to discharge the condition.

Condition number	Condition	Details submitted	Status
4	Notwithstanding the submitted details, prior to any works above the level of the damp proof course the details of the boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. This shall include the number, species, spacing and height at planting of any new hedges, and details of any fencing and walls where appropriate. Where a new dwelling directly or closely adjoins existing neighbouring domestic premises the suggested boundary treatment shall include a 1.8m high close	Drawing LDC3109-BR-101_D Building Regulations Drawing Landscaping Plan received by the LPA on 17-May-2023	Acceptable

8	<p>boarded fence at the boundary or boundaries with that neighbour or neighbours.</p> <p>The approved details shall be completed prior to the occupation of each dwelling and thereafter retained and maintained.</p> <p>Prior to any works above the level of the damp proof course details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall be submitted to and approved by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 regarding streets to be adopted by the Highways Authority or a private management and maintenance company has been established which shall be responsible for any other streets within the development or shared private drives.</p>	Section 38 Agreement (S.38A) – Technical Approval of Scheme Details received by the LPA on 30-Apr-2023	Acceptable
9	<p>Prior to any works above the level of the damp proof course full engineering, drainage, street lighting and constructional details of any streets proposed for adoption shall be submitted to and approved in writing by the Local Planning Authority. The development shall be</p>	Section 38 Agreement (S.38A) – Technical Approval of Scheme Details received by the LPA on 30-Apr-2023	Acceptable

15	<p>constructed in accordance with the approved details which shall thereafter be so maintained</p> <p>Notwithstanding the details shown on the approved plans, prior to any works above the level of the damp proof course, a landscaping and biodiversity plan incorporating the principles set out in approved drawing no. LDC3109-PL-101-E (Proposed Landscape Plan) received by the LPA on 20th July 2021 shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of the species to be planted (grasses as well as trees and shrubs) and details of bird and bat nesting sites and other ecology measures, and a timetable for the implementation of those works.</p> <p>The development shall then be implemented in accordance with the agreed details.</p>	<p>Drawing LDC3109-BR-101_D Building Regulations Drawing Landscaping Plan received by the LPA on 17-May-2023</p>	Acceptable
17	<p>Prior to the commencement of development above slab level of any dwelling, final details of measures that aim to reduce pollution and promote renewable and low carbon energy (including measures such as facilities for EV car charging) and details relating to the timing of their implementation, shall be submitted to and approved in writing with the Local Planning Authority. The development shall be constructed in accordance with the approved measures.</p>	<p>Details set out in Conditions Discharge Letter dated 10-Feb-2023 and received by the LPA on the same date</p>	Acceptable

NOTES FOR DECISION NOTICE:			